

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VELARDO RIVERA and YASMINE ROMERO, individually, and on behalf of all others similarly situated,

Plaintiffs,

V.

AMAZON WEB SERVICES, INC.,  
a Delaware corporation,

Defendant.

No. 2:22-CV-00269-JHC

STIPULATED MOTION AND  
ORDER MODIFYING DEADLINES

**NOTE ON MOTION CALENDAR:  
JULY 25, 2024**

Pursuant to Local Civil Rules 7(d)(1) and 10(g), defendant Amazon Web Services, Inc.

(“AWS”) and Plaintiffs Avelardo Rivera and Yasmine Romero (“Plaintiffs”) (collectively, the “Parties”), jointly move the Court for a modification and extension of the current discovery and class certification deadlines. In support of this stipulated motion, the Parties state as follows:

1. On April 23, 2024, the Parties filed a Joint Status Report, including proposed deadlines for expert discovery and class certification briefing, which the Court adopted. *See* Dkts. 196, 199.

2. On May 15, the Parties filed a Stipulated Motion and [Proposed] Order for Extension of Fact Discovery Deadlines, which the Court granted. *See* Dkts. 200, 201.

3. Accordingly, fact discovery as between the Parties closed on June 17, while fact discovery as to third parties is scheduled to close on August 1.

1       4.     With respect to third-party fact discovery, AWS identified tens of thousands of  
 2 AWS Rekognition customers through its discovery responses and document productions. *See*,  
 3 *e.g.*, AWS\_00009345, AWS\_00009868, AWS\_00009869. Plaintiffs served third-party discovery  
 4 requests seeking information from several of those AWS customers.

5       5.     Plaintiffs informed AWS and the Court that they may seek to modify the current  
 6 proposed class definition based on information obtained during the ongoing third-party fact  
 7 discovery period. *See, e.g.*, Dkt. 187 at 4 n.2 (“Based on Plaintiffs’ investigation, Plaintiffs may  
 8 [re]define the class as Illinois end users of only certain AWS customers: ProctorU and large  
 9 customers who likely (if not certainly) have Illinois end users.”); *compare* Dkt. 88 ¶ 52 (Second  
 10 Amended Complaint defining the proposed class as “[a]ll Illinois residents who had their  
 11 biometric information or biometric identifiers collected, captured, received, possessed, or  
 12 otherwise obtained by Amazon’s Rekognition service and stored in AWS’s servers”).

13       6.     On May 17, AWS served written discovery requests on Plaintiffs. Among other  
 14 things, AWS’s written discovery requests asked Plaintiffs to describe the modified class  
 15 definition or definitions that Plaintiffs may or will propose in this matter.

16       7.     On June 17, Plaintiffs served their responses and objections to AWS’s discovery  
 17 requests. In those responses and objections, Plaintiffs stated they are not yet able to describe the  
 18 modified class definition or definitions they may or will propose because third-party fact  
 19 discovery is ongoing and that discovery may impact whether and how Plaintiffs may seek to  
 20 modify the class definition proposed in the Second Amended Complaint.

21       8.     On June 27, the Parties met and conferred to discuss the most efficient way to  
 22 proceed with discovery and class certification briefing given the procedural posture discussed  
 23 above. The Parties agreed that the current case schedule should be amended for two reasons,  
 24 both of which constitute good cause to amend the current case schedule.

25       9.     First, Plaintiffs’ position is that they must complete third-party fact discovery with  
 26 AWS’s customers before they can determine which customers’ end users can appropriately be

1 included in the class. Upon completion, Plaintiffs will be able to define the class (or classes) they  
2 will ask the court to certify under Rule 23.

3       10. Second, AWS's position is that it must be allowed to conduct fact and expert  
4 discovery *after* Plaintiffs have identified their proposed modified class definition or definitions.  
5 Otherwise, AWS would be unduly prejudiced because it would have no opportunity to conduct  
6 fact and expert discovery based on the class or classes for which Plaintiffs intend to seek  
7 certification. AWS has identified tens of thousands of AWS customers in discovery, but AWS  
8 has no way of knowing, at this stage of the case, which end users of which AWS customers will  
9 fall within the scope of Plaintiffs' proposed class or classes. For the same reason, requiring AWS  
10 to conduct all fact and expert discovery in support of its class certification defenses *before*  
11 Plaintiffs have identified the class or classes they will seek to certify would be wasteful and  
12 inefficient.

13       11. Therefore, the Parties jointly request that the Court modify the current case  
14 schedule by:

- 15           i. Staying all existing expert discovery deadlines.
- 16           ii. Staying all existing class certification briefing deadlines.
- 17           iii. Granting Plaintiffs leave to identify (through an amended complaint or  
18               supplemental interrogatory responses), no later than August 8, the class  
19               definition or definitions for which they intend to seek certification. For the  
20               avoidance of doubt, if Plaintiffs decide to seek certification of a class  
21               composed of end users of certain AWS Rekognition customers, then Plaintiffs  
22               must identify those AWS customers.
- 23           iv. Granting AWS leave to conduct party and third-party fact discovery related to  
24               AWS's class certification defenses and Plaintiffs' August 8 class definition or  
25               definitions, and granting Plaintiffs leave to conduct third-party fact discovery

1 related to AWS's class certification defenses and Plaintiffs' August 8 class  
 2 definition or definitions.

3 v. Ordering the Parties to file, no later than August 15, a joint stipulation  
 4 proposing deadlines for (i) AWS to conduct party and third-party fact  
 5 discovery related to AWS's class certification defenses and Plaintiffs' August  
 6 8 class definition or definitions, and for Plaintiffs to conduct third-party fact  
 7 discovery related to AWS's class certification defenses and Plaintiffs' August  
 8 8 class definition or definitions; (ii) the Parties to complete expert discovery  
 9 regarding class certification; and (iii) the Parties to complete class certification  
 10 briefing.

11 12. Under Federal Rule of Civil Procedure 16(b)(4), “[a] schedule may be modified  
 12 only for good cause and with the judge’s consent.” Good cause exists here because, as described  
 13 above, the Parties’ proposed approach accommodates Plaintiffs’ need to finalize a class  
 14 definition or definitions after the current third-party fact discovery period ends, on one hand, and  
 15 AWS’s need to conduct discovery in support of its class-certification defenses after learning the  
 16 class or classes for which Plaintiffs will seek certification, on the other hand.

17 13. Further, the requested modification of the schedule is timely because the Court  
 18 has already granted the Parties leave to conduct third-party fact discovery until August 1, expert  
 19 discovery has not begun, and the Parties have not started class certification briefing. *See*  
 20 *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9<sup>th</sup> Cir. 2010) (requests for extensions  
 21 of time made before the applicable deadline has passed should normally be granted in the  
 22 absence of bad faith or prejudice).

23 14. Accordingly, the Parties respectfully request that the current case schedule be  
 24 modified as follows:

<b>Event</b>	<b>Current Deadline</b>	<b>Proposed Deadline</b>
Parties' deadline to complete the current phase of third-party fact discovery	August 1, 2024	August 1, 2024 (unchanged)
Plaintiffs' deadline to identify the class definition or definitions for which they intend to seek certification (through an amended complaint or supplemental interrogatory responses)	N/A	August 8, 2024
Parties' deadline to file a joint stipulation proposing deadlines for (i) AWS to conduct party and third-party fact discovery related to AWS's class certification defenses and Plaintiffs' August 8 class definition or definitions and for Plaintiffs to conduct third-party fact discovery related to AWS's class certification defenses and Plaintiffs' August 8 class definition or definitions; (ii) the Parties to complete expert discovery regarding class certification; and (iii) the Parties to complete class certification briefing	N/A	August 15, 2024
AWS's expert disclosures regarding class certification issues	September 9, 2024	Stayed pending the Parties' joint stipulation proposing deadlines
Plaintiffs' rebuttal expert disclosures regarding class certification issues	November 4, 2024	Stayed pending the Parties' joint stipulation proposing deadlines

1	Completion of expert discovery regarding class certification issues	December 9, 2024	Stayed pending the Parties' joint stipulation proposing deadlines
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4	Deadline to file <i>Daubert</i> motions regarding class certification experts	January 27, 2025	Stayed pending the Parties' joint stipulation proposing deadlines
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7	Plaintiffs' deadline to file motion for class certification	January 27, 2025	Stayed pending the Parties' joint stipulation proposing deadlines
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9	Defendant's deadline to respond to motion for class certification	March 3, 2025	Stayed pending the Parties' joint stipulation proposing deadlines
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11			
12	Reply in support of class certification	March 24, 2025	Stayed pending the Parties' joint stipulation proposing deadlines
13			
14			
15	Parties' deadline to file joint status report to propose post-class certification deadlines	Fourteen (14) days after Court's ruling on motion for class certification	Fourteen (14) days after Court's ruling on motion for class certification (unchanged)
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17			

18  
 19 WHEREFORE, the Parties respectfully request that the Court enter an order modifying  
 20 the current case deadlines in accordance with this Stipulated Motion.  
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 26

1 Dated: July 25, 2024  
2

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**LCR 7(e) Certification**

27 I certify that this memorandum contains 1345 words, in compliance with the Local Civil  
28 Rules.

29 s/ Ryan Spear

## ORDER

IT IS SO ORDERED.

DATED this 25th day of July, 2024.

John H. Chun  
JOHN H. CHUN  
UNITED STATES DISTRICT JUDGE